

**BEFORE THE STATE BOARD OF MEDIATION  
STATE OF MISSOURI**

INTERNATIONAL ASSOCIATION OF	)	
FIREFIGHTERS, LOCAL NO. 2921	)	
	)	
Petitioner,	)	
	)	
vs.	)	Public Case No. 84-109
	)	
CITY OF LEBANON, MISSOURI	)	
	)	
Respondent.	)	

**JURISDICTIONAL STATEMENT**

This case appears before the State Board of Mediation upon the International Association of Firefighters, Local No. 2921, filing a petition for certification as public employer representative of certain employees of the City of Lebanon Fire Department. On February 16, 1984 a hearing was held in the City of Lebanon, Missouri, at which representatives of the Petitioner and Respondent were present. The case was heard by the State Board of Mediation Chairman Mary Gant, Employer Member Norman Litz and Employee Member Charles Yaeger. The State Board of Mediation is authorized to hear and decide issues concerning appropriate bargaining unit determinations by Section 105.525 RSMo 1978.

At the hearing the parties were given full opportunity to present evidence. The Board, after a careful review of the evidence, sets forth the following Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT**

The Lebanon Fire Department provides the City of Lebanon, Missouri with fire protection and other emergency services. The Department employs thirteen (13) full-

time personnel, consisting of a Fire Chief, three Captains, three Drivers, and six Firefighters. The department has also, at various times, utilized voluntary firefighters.

The policies and procedures of the fire department are reviewed by a committee known as the Fire Board. This committee consists of four members of the City Council who are appointed to the Board by the Mayor. The Board serves as a liaison between the fire department and the people of Lebanon and makes recommendations to the Mayor and the City Council relative to fire department equipment acquisition and budget.

The fire department currently operates two station houses, only one, however, is manned at any particular time. Normally, a station is staffed by one Captain, one Driver, and two Firefighters. This crew works rotating twenty-four (24) hour shifts; twenty-four (24) hours on the job and forty-eight (48) hours off. During the work shift, the crew shares the fire station dormitory facility and living quarters.

The position of Fire Chief (Chief) involves performing the following duties: 1) exercising authority over all Captains, Drivers and Firefighters, 2) taking command of the scene of all structural fires, 3) maintaining records and reports, 4) supervising the maintenance of fire department equipment 5) making recommendations to the Fire Board as to the hiring, firing and promotion of fire department personnel, 6) supervising the fire department training programs, and 7) scheduling fire department work.

Unlike the crew, the Chief does not reside in the station house while on duty. The Chief works a standard forty (40) hour week but may be called upon at any time to supervise the suppression of a structural fire.

The position of Captain is subordinate to the Fire Chief, the Fire board, the Mayor and the City Council. Captains are responsible for taking command of the scene of minor non-structural fires and may temporarily take command of a structural fire until the Chief arrives. Captains receive fifty dollars more per month than Drivers and one hundred dollars more per month than Firefighters.

Captains, and their crews, clean the fire station and the living quarters and do other necessary chores. The crew prepares and eats meals together. Captains have authority to direct the crew with respect to these duties.

Captains are not specifically assigned to perform administrative duties. Any crew member may fill out the daily log, write up a fire report or recommend discipline of a crew member to the Chief. In addition, any crew member may advise the Chief on matters relating to the hiring, promotion or discharge of employees.

Captains do not wear a special uniform or insignia, nor do they have separate living quarters or offices at the station house. When the crew is supervising a fire, there are no prearranged duties with respect to handling the fire hose. Any crew member may take the key position at the nozzle. When the Lebanon Fire Department engages in training exercises, Captains are required to participate.

The positions of Driver and Firefighter are subordinate to the position of Captain with regard to certain station house duties, as mentioned previously. Drivers may direct this station house work when the Captain is absent. When the Captain and Chief are absent, the Driver has command of the scene of a fire until the arrival of a Captain or the Chief.

All fire department employees are appointed by the Mayor upon the recommendation of the Fire Chief and the Fire Board.

### **CONCLUSIONS OF LAW**

The International Association of Firefighters, Local No. 2921 has petitioned to be certified as public employee representative for all regular full-time employees of the City of Lebanon Fire Department, including the position of Captain. The City of Lebanon contends that Captains should be excluded from the bargaining unit. The basis for the City's position is that Captains have supervisory authority. Both parties agree that the position of Chief should be excluded from the unit due to its supervisory status.

It is well settled that supervisory employees cannot be included in the same bargaining unit with those employees whom they supervise. Golden Valley Memorial Hospital v. Missouri State Board of Mediation, 559 S.W.2d 581 (Mo.App., K.C.D. 1977). IN determining the supervisory status of employees within bargaining units, the Board has consistently examined the following seven factors. They are:

- (1) The authority to effectively recommend the hiring, promotion, transfer, discipline, or discharge of employees;
- (2) The authority to direct and assign the work force;
- (3) The number of employees supervised and the number of other persons exercising greater, similar, or lesser authority over the same employees;
- (4) The level of pay, including an evaluation of whether the supervisor is paid for his skill or for his supervision of employees;
- (5) Whether the employee is primarily supervising an activity or is supervising employees;
- (6) Whether the supervisor is a working supervisor or whether he spends a substantial majority of his time supervising employees; and
- (7) The amount of independent discretion and judgment exercised in the supervision of employees.

St. Louis Firefighters Association, Local 72, IAFF v. City of St. Louis, Public Case No. 76-013 (SBM 1976); Teamsters, Local 610 v. Afton Fire Protection District, Public Case No. 81-007 (SBM 1981).

There is no evidence in this case indicating that Captains can effectively recommend the hiring, promotion, transfer or discipline or other fire department employees. The Captain's input with respect to these matters is subject to review by the Fire Chief. In addition, this task as well as other administrative duties are not specifically assigned to the Captains but are shared by the other members of the crew. The facts indicate that important supervisory matters such as discipline, scheduling and grievance procedures are handled by the Chief, not the Captains. The majority of the Captain's time is spent as a leadsman or working supervisor, performing the same

duties as the other firemen. It is clear that Captains primarily supervise the activity of firemen but not the firemen themselves. In this regard, Captains exercise very little independent judgment and discretion in the course of their duties as firemen.

The Board is reluctant to deny an employee's right to representation because of supervisory status unless it is clear from the record that the employee possesses true supervisory authority. In this case, the evidence is insufficient to support such a conclusion with respect to the position of Captain. Therefore, the Board concludes that Captains should be properly included in the bargaining unit.

### **DECISION**

It is the decision of the State Board of Mediation that an appropriate unit of employees is as follows:

"All regular full-time employees of the City of Lebanon Fire Department; excluding the supervisory position of Fire Chief."

### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the Chairman of the State Board of Mediation, or a designated agent thereof, among the employees in the unit found appropriate, as early as possible, but no later than thirty (30) days from the date below. The exact time and place shall be set forth in the Notice of Election to be issued subsequently, subject to the Board's rules and regulations. Eligible to vote are those in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because of vacation or illness. Ineligible to vote are those who resigned or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date. Those eligible to vote shall vote whether or not they desire to be represented by International Association of Firefighters, Local No. 2921 for the purpose of exclusive representation.

It is hereby ordered that the Respondent shall submit to the Chairman of the State Board of Mediation, as well as the Petitioner, within fourteen (14) days from the date of receipt of this decision, an alphabetical list of the names and addresses of employees in the unit determined to be appropriate who were employed during the designated payroll period.

Signed this 26th day of April, 1984.

STATE BOARD OF MEDIATION

(SEAL)

/s/ Mary L. Gant  
Mary L. Gant, Chairman

/s/ Norman Litz  
Norman Litz, Employer Member

/s/ C. J. Yaeger 4/23/84  
Charles Yaeger, Employee Member